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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,760	08/14/2001	Scott E. Hrastar	191910-1111	9487

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Scientific Atlanta, Inc.  
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EXAMINER
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SALCE, JASON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/929,760	<b>Applicant(s)</b> HRASTAR ET AL.	
	<b>Examiner</b> Jason P. Salce	<b>Art Unit</b> 2611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/5/2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 11/5/2204 have been fully considered but they are not persuasive.

Regarding independent claim 1, Applicant argues that Majeti does not teach "*logic to authorize the subscriber to access a second communications path*". The examiner disagrees and notes that the limitation "*logic to authorize the subscriber*" is broad and does not read over Majeti.

Majeti teaches the limitation, "*logic to authorize the subscriber to access a second communications path*" at Column 9, Lines 42-66, where Majeti discloses that when a request for a high definition picture is made, the request is analyzed and authorization by the control processor 48 is made, allowing the user to receive the high definition picture over the high bandwidth cable network instead of the PSTN network. The examiner notes that this limitation is broad, therefore, Column 9, Lines 42-66 is equivalent to "*logic to authorize*".

Applicant also argues that Kawashima does not teach any type of authentication mechanism. Kawashima is used to modify Majeti in order to teach the limitation, "*the first communications path providing at least a portion of connectivity between the host location and a headend of the cable data delivery network*".

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413,

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208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant also argues that Majeti does not teach, "*comparing second identification information with at least part of the at least one database*". Majeti teaches this limitation at Column 9, Lines 50-57, where the control processor 48 decodes the total quantity of information (the identification information) and checks its database and determining that the CATV transmission network must be used to transmit the data. The examiner notes that the broad limitation, "*identification information*" is broad, therefore the quantity of information data can be read as "*identification information*".

For the remaining independent claims, see the arguments made above regarding independent claim 1.

Claim 29 recites, "*logging into the cable data network*", instead of "*logic to authorize*". Webster's dictionary defines log on as, "**establish communication and initiate interaction with a time-shared computer or network**". Majeti therefore discloses this limitation at Column 9, Lines 50-57.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Majeti et al. (U.S. Patent No. 5,534,913) in view of Kawashima (U.S. Patent No. 5,818,911).

Referring to claim 1, Majeti discloses a network manager (see element 18 in Figure 1) including at least one database of authorized users (see element 96 in Figure 2) and a validation agent (see element 48 in Figure 1).

Majeti also discloses logic to authorize the subscriber to access a first communications path by comparing first identification information with at least part of the at least one database (see Column 6, Lines 15-20 for the processor 48 conducting a login process using a database 96, which stores subscribers' information and authentication keys, and also note Column 8, Lines 58-67 and Column 9, Lines 1-6 for using such information to verify the communication path used to transmit data to the subscriber (element 10A in Figure 1), the first communications path providing at least a portion of connectivity between the host location and a head end of the cable data delivery network (see Column 9, Lines 10-36 for determining that the request will require access to only the PSTN network 24 for proper transmission to the subscriber). Therefore, the first communications path (PSTN 24) provides a portion of connectivity (link between subscriber and modems 54A-54N).

Majeti also discloses logic to authorize the subscriber to access a second communication path responsive to the first communications path authorization (see Column 9, Lines 37-67 for the system allowing the user to transmit data requiring a higher bandwidth over the CATV network and again Column 8, Lines 58-67 and Column

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9, Lines 1-6 for authorizing the subscriber to makes requests), by comparing second identification information with at least part of the at least one database (see Column 9, Lines 50-57 for comparing the request information to the information in the database to determine if the CATV will be used to transmit the requested data), the second communications path providing at least a portion of connectivity between the host location and the headend of the cable data delivery network (see Column 9, Lines 56-66 for transmitting the data from the headend 30N to the subscriber 20 in Figure 1).

Majeti fails to disclose that the modem(s) 54A-54N are located at the cable headend, therefore not disclosing the limitation "the first communications path providing at least a portion of connectivity between the host location and a headend of the cable data delivery network". Majeti only teaches a "Signal Channel Bridging Unit" 18 for communicating via PSTN and headends 30A-30N.

Kawashima discloses a single service-offering center 1, which discloses a system, which is similar to Majeti, in that Kawashima accepts request data from a third information network (which can be any type of distribution) and distributes the requested data over a first or second distribution network depending on the amount of data that needs to be transmitted. Kawashima specifically discloses at Column 9, Lines 19-67 and Column 10, Lines 1-10 that the third information network can be a PSTN (as also taught by Majeti) and that the first and second transmission networks can be a CATV network, therefore since all connections from all networks are coupled to a single service-offering center 1, Kawashima discloses a single headend for receiving and transmitting all requests.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to combine the split channel bridging unit 18 and headend(s) 30A-30N, as taught by Majeti, using a single service-offering center, as taught by Kawashima, for the purpose of providing data over a network that provides a high capacity of bandwidth than regular PSTN telephone lines can provide, therefore allowing a user to access data at a faster rate (see Column 1, Lines 31-35 and Lines 54-56 of Kawashima).

Claim 2 corresponds to claim 1, where Majeti discloses that the first identification information includes a USERID (see Column 8, Lines 59-61).

Claim 3 corresponds to claim 2, where Majeti and Kawashima fail to specifically teach using a subscriber password as well as a USERID as the identification information. The examiner takes Official Notice that it is well known for a user to log into a service provider using both an USERID and password. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the USERID, as taught by Majeti, to also include a password, for the purpose of adding an extra level of security to prevent other parties from accessing a subscriber's private information.

Referring to claim 4, see rejection of claims 2-3. Also note Column 6, Lines 17-20 for the database storing the subscriber's information and authentication keys.

Referring to claim 5, see rejection of claims 1-4. Note again that Majeti provides the subscriber access to the first communications path by an authentication process using a USERID (with the password feature being an obvious variation (claim 3)).

Claim 6 corresponds to claim 5, where Majeti discloses that the host location includes a dial up device (element 76 in Figure 1) that further includes a cable data receiver for receiving said digital data (element 62 in Figure 1).

Claims 7-9 corresponds to claims 6-8, respectively, where Majeti discloses sending an user identification code (electronic identifying number) (from modem 76 in Figure 1) to the signal channel bridging unit 18, authorizing the code using a database and transmitting the requested data through the CATV network to subscriber 20 (see Column 6, Lines 15-20, Column 8, Lines 58-67 and Column 9, Lines 1-6).

Claim 10 corresponds to claim 1, where Majeti discloses that the first communications path is a PSTN link (see elements 22 and 24 in Figure 1).

Claim 11 corresponds to claim 1, where Majeti discloses that the first communications path is bi-directional (the examiner notes that a PSTN link is bi-directional).

Claim 12 corresponds to claim 1, where Majeti discloses that the second communications path is an RF cable link (see element 36 in Figure 1).

Claim 13 corresponds to claim 1, where Majeti discloses that the second communications path is uni-directional (see Column 2, Lines 50-52 for only transmitting information on the cable network on the downlink, not the uplink, therefore the second communications path (element 36 in Figure 1, is inherently "uni-directional")).

Referring to claims 14-20, see rejection of claims 1, 4, 7 and 10-13, respectively.

Referring to claim 21, see rejection of claim 1.



Referring to claim 22, the examiner notes that a CATV network (second level of service) contains a higher data rate than a PSTN network (first level of service). The examiner notes that the limitations of which level of service is the CATV network and the PSTN network is broad, and that either level of service (the first or the second) can be over the CATV network or the PSTN network.

Referring to claims 23-24, see rejection of claims 10 and 12, respectively.

Referring to claims 25-28, see rejection of claims 1, 22, 10 and 12, respectively.

Referring to claims 29-32, see rejection of claims 1, 22, 10 and 12, respectively.

Referring to claim 33, Majeti discloses authorizing the user to make requests over the PSTN link (see Column 8, Lines 58-67 and Column 9, Lines 1-6). The examiner notes that if a user is not authorized to use the system, he/she will inherently not be permitted to access the system.

Referring to claim 34, Majeti discloses that the first identification information and the second identification information are of different types (note that the first identification information is the user logging into the system and the second identification information can be either of the requests cited at Column 9, Lines 10-50). The term "identification information" is broad and can be interpreted as either the user identification code, or the actual request made by the subscriber for information from service provider 10A in Figure 1.

Referring to claims 35-36, see rejection of claims 33-34, respectively.

Referring to claims 37-38, see rejection of claims 33-34, respectively.

Referring to claims 39-40, see rejection of claims 33-34, respectively.

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Referring to claims 41-42, see rejection of claims 33-34, respectively.

Referring to claim 43, see rejection of claim 7.

Referring to claim 44, see rejection of claims 6 and 7.

Referring to claims 45 and 46, see rejection of claim 44.

Referring to claim 47, see rejection of claim 47.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce  
Patent Examiner  
Art Unit 2611

May 2, 2005



CHRIS GRANT  
PRIMARY EXAMINER